IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6397 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAIYED IQBAL

Versus

AHMEDABAD MUNICIPAL CORPORATION

Appearance:

1. Special Civil Application No. 6397 of 1999

MR YF MEHTA for Petitioner No. 1

MR PRASHANT G DESAI for Respondent No. 1-3

NOTICE UNSERVED for Respondent No. 4

NOTICE SERVED for Respondent No. 4/I

MR AMAR N BHATT for Respondent No. 4/II

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 17/08/2001

ORAL JUDGEMENT

Rule. With the consent of the learned counsel for the parties, the petition is finally heard and is being disposed of by this judgment.

2. In this petition under Article 226 of the Constitution, the petitioner has challenged the decision of the respondent-Ahmedabad Municipal Corporation to continue the occupation and user by respondent No. 4 of the premises admeasuring about 1637 sq. yards of land with 299 sq.yards of construction thereon in the Motilal Park, popularly known as Law Garden in Ellisbridge, Ahmedabad. The petitioner has also prayed that the said premises be given by public auction. The petitioner has also prayed that the rent at the rate of Rs.1,00,000/per month be recovered from respondent No. 4-Modern Caterers Pvt. Ltd. from October, 1998 onwards.

3. In the Ellisbridge area of the city of Ahmedabad, there is a Municipal garden called Motilal Park, popularly known as the Law Garden. A part of the Park being land admeasuring 1637 sq. yards with construction of 299 sq. yards was earmarked for running a restaurant and was let out for the first time to another party in the year 1964. It was let out to respondent No. 4-Modern Caterers on lease basis in the year 1978 at a monthly rent of Rs.1000/- per month for a period of 10 years. Again the lease was renewed for a period of 10 years from 18.10.1988 to 17.10.1998 at a monthly rent of Rs.3460/- per month plus taxes. When the lease period was about to be over, respondent No. 4 submitted an application for renewal of the lease and submitted a further representation dated 5.5.1999 submitting that respondent No. 4 running an ice-cream parlour had been regularly paying the rent and taxes and had also constructed a water tank of the capacity of 20,000 Ltrs. and expressed its willingness to pay the monthly rent of Rs.25,000/- plus municipal taxes. Though no tenders or public offers were invited, six other parties including the petitioner herein submitted their offers for taking the aforesaid land with construction on lease at the following rates :-

	Offered Rent per Month
	Respondent No. 4 Rs. 25,000 + Tax
1.	Kiranbhai Vishnubhai Patel Rs. 45,000 + Tax
2.	Sai Continental Rs. 50,000 + Tax
3.	Rajkumar Shatriya Rs. 22,000 Net
4.	Pankajbhai Bhavsar Rs. 32,000 Net
5.	Makhansingh Rs. 20,000 Net
6.	Saiyed Iqbal (petitioner) Rs.1,01,000 Net

By letter dated 30.6.1999, the Municipal Commissioner submitted a proposal to the Municipal Secretary recommending renewal of the lease for a further period of 10 years from 17.10.1998 at a monthly rent of Rs.25,000 plus taxes subject to the condition that whatever changes may be suggested by Architect Mr Kamal Mangaldas, the petitioner shall carry out such changes in the construction and the petitioner shall make advance payment of rent plus taxes for one year and subject to the conditions incorporated in the the previous lease deed. The Municipal Commissioner submitted the aforesaid proposal dated 30.6.1999 for approval of the Municipal Board through the Standing Committee. By its Resolution dated 2.7.1999 (Resolution No. 342/99-2000), the Standing Committee accepted the proposal of the Municipal Commissioner with further condition that respondent No. 4 shall carry out the suggestions of Architect Mr Kamal Mangaldas within six months at the cost of respondent No. 4 and if the work is not completed within that time limit, possession of the premises shall be returned to the Municipal Corporation and the advance rent plus taxes shall be paid for three months and the conditions of the previous lease shall continue. The Standing Committee accordingly extended the period of lease for a further period of 10 years from 17.10.1998 in anticipation of the approval by the General Board of the Municipal Corporation. Though the affidavit in reply dated 25.11.1999 on behalf of the Municipal Commissioner stated that the aforesaid resolution dated 2.7.1999 of the Standing Committee was subject to the approval of the Municipal Board and that the matter was still pending before the Municipal Board, in the affidavit in reply dated 18.7.2001 filed on behalf of respondent No. 4, it is stated that the said resolution of the Standing Committee was approved by the General Board of the Municipal Corporation vide Resolution No. 747 on certain terms and conditions, one of them being increase in rent to Rs.1500/- for the building and Rs.230/- for the parlour per month to be paid by respondent No. 4 with effect from 29.8.1989. Thereafter vide letter dated 20.10.2000 (Annexure "B" to the reply affidavit of respondent No.4), the Deputy Municipal Commissioner, Central Zone Estate forwarded to respondent No. 4 the plans prepared by Architect Mr Kamal Mangaldas for making changes in the premises in question. By letter dated 12.1.2001 (Annexure "C" to the reply affidavit of respondent No. 4), Mr Mayank Dave, B.E. (Civil), Consulting Engineer gave the estimate to respondent No. 4 for the Law Garden restaurant as per the drawing prepared by Mr Kamal Mangaldas. The estimate prepared by the said Consulting Engineer worked out to a total amount

of Rs. 41,00,000/- approximately.

4. The present petition came to be filed in October, 1999. Affidavit in reply dated 25.11.1999 was filed on behalf of the Municipal Commissioner. It is pointed out in the reply affidavit as under :-

The Municipal Commissioner had indicated in his proposal dated 30.6.1999, inter alia, that possession of respondent No. 4 was since last 20 years and they had spent substantial amount of around Rs.3,00,000/- for making some renovation of the existing structure and they had agreed to give the rent at seven times more than what they were giving per month plus taxes earlier. Possession was with respondent No. 4 since 1978 and in that view of the matter it was thought proper to continue the lease by increasing the rent. It is not the case of giving lease for the first time, but it is the grant of renewal of the lease.

5. Affidavit in reply dated 18.7.2001 is also filed on behalf of respondent No. 4 submitting that there is no procedure or practice of inviting tenders while renewing the lease period in favour of various lessees. It is also pointed out how the property in question was given on lease from 1964 onwards and how the amount of rent has been increased from time to time particularly how respondent No. 4 was granted lease of the property in question from 1978 onwards.

6. Affidavit dated 13.8.2001 has been filed by the petitioner mainly to rebut the allegation made by respondent No. 4 that the petitioner has no experience int he fast food businees which he proposes to start. The affidavit also states that the rent of the ice-cream stall of an area of 500 sq.ft. on the Railway STation is Rs. 2 lacs per month. In affidavit dated 16.8.2001 filed on behalf of respondent No. 4, the petitioner's case in the affidavit dated 16.8.2001 is denied.

7. At the hearing of this petition, Mr YF Mehta, learned counsel for the petitioner has urged the following contentions :-

7.1 The property in question is situated in the prime locality of Ahmedabad. For the land admeasuring about 1600 sq. yards, the respondent Corporation has granted respondent No. 4 lease on a meagre amount of Rs.25,000/per month (plus taxes) and the impugned resolution of the Corporation has not given any reason for not considering the offer made by the petitioner at

Rs.1,00,000/- per month which is the net amount (which means that Rs. 1,00,000/- is exclusive of taxes).

7.2 The petitioner is prepared to pay monthly rent of Rs.1,00,000/- plus taxes and the petitioner is also ready and willing to carry out the changes suggested by Architect Mr Kamal Mangaldas at the petitioner's cost.

7.3 In the alternative, it is submitted that the respondent Corporation has acted illegally and arbitrarily in giving lease of the property in question to respondent No. 4 without issuing any tender notice or without inviting any public offer. Reliance has been placed on the decisions of the Apex Court in Ramana Dayaram Shetty vs. International Airport Authority of India, AIR 1979 SC 1628, Tata Cellular vs. Union of India, AIR 1996 SC 11, Sterling Computers Ltd. vs. M & N Publications Ltd., AIR 1996 SC 51 and M.I. Builder Pvt. Ltd. vs. Radhey Shyam Sahu, (1996) 6 SCC 464.

7.4 The respondent-Corporation has favoured respondent No. 4 not only by passing the impugned resolution, but also by condoning various illegalities such as unauthorized construction by respondent No. 4 on the land in question without permission of the Corporation and not pursuing the eviction case which was initiated in the year 1989.

7.5 Respondent No. 4 has already committed breach of the resolution dated 2.7.1999 of the Standing Committee by not putting up any construction within six months from the date of the resolution.

8. On the other hand, Mr Prashant G Desai with Mr Choksi, learned counsel appearing for the Ahmedabad Municipal Corporation and Mr SN Soparkar with Mr Amar Bhatt, learned counsel for respondent No. 4 have opposed the petition and made the following submissions :-

8.1 There is no statutory provision requiring the Corporation to issue any tender notice or invite any public offers before granting any property on lease or before renewing any existing lease. Hence, the respondent Corporation has not committed any illegality.

8.2 In any view of the matter, there was full justification for renewing the lease without inviting any tenders. Respondent No. 4 was a sitting tenant since 1978. Evicting respondent No. 4 would have dragged the Corporation into unnecessary litigation and possession might not have been recovered for a number of years. As

against that, respondent No. 4 was regular in paying the rent and taxes and had also spent substantial amounts on renovation of the existing construction in the past and also construction of water bank with 20000 Ltrs. capacity. Moreover, respondent No. 4 was agreeable to pay seven times rent i.e. instead of monthly rent of Rs.3460/- plus taxes under the lease agreement for the period between 1988 and 1998, respondent No. 4 had offered to pay Rs.25,000/- per month plus taxes. Respondent No. 4 was also going to carry out the construction as per the suggestions made by Architect Mr Kamal Mangaldas and, therefore, considering all these relevant facts, the decision of the respondent Corporation was rational and reasonable and could not be considered as arbitrary.

8.3 Strong reliance has been placed on the decisions of the Apex Court in Tata Cellular vs. Union of India, AIR 1996 SC 11 and in Kasturilal vs. State of J & K, AIR 1980 SC 1992 in support of the contention that this Court would not interfere with the decision of a public authority in matters of contract.

8.4 An additional contention urged by Mr Soparkar and Mr Bhatt for respondent No. 4 is that the petitioner does not have any experience or financial capacity of carrying on business in this line and that the petitioner has been put up by rival in the business viz. Dairy Den which is promoting this litigation. The offer made by the petitioner is not a genuine one.

8.5 The construction/renovations as suggested by the Architect have not been carried out in view of pendency of this petition since October, 1999.

9. The Court has given anxious and thoughtful consideration to the rival submissions. While it is true that the impugned decision is not the decision for granting a new lease and is an extension of an existing lease, the fact remains that the Corporation had earlier also not issued any tender notice or invited public offers before granting the land on lease to respondent No. 4 in 1978 and renewing the lease in 1988. The Corporation has not made any attempt to ascertain whether the monthly rent of Rs.25,000/- plus taxes as offered by respondent No. 4 was the best possible rent which could be obtained for the valuable property in question situate in the prime locality of Ahmedabad. It is pertinent to note that when the Municipal Commissioner submitted his proposal dated 30.6.1999 or the Standing Committee passed the resolution on 2.7.1999 or the Municipal Board passed

its resolution on 26.11.1999, the respondent Corporation did not have available with it the estimated cost of the construction/renovation proposed by Mr Kamal Mangaldas. The plans of Mr Kamal Mangaldas were for the first time forwarded by the Municipal Commissioner to respondent No. 4 on 20.10.2000 (Annexure "B" to the reply affidavit of respondent No. 4 Pg. 55). The estimate of Rs.41 lacs as the cost of renovations suggested by Mr Kamal Mangaldas is as per the estimate dated 12.1.2001 prepared by a private Engineer consulted by respondent No. 4 (Annexure "C" to the reply affidavit of respondent No.4) during pendency of this petition of which notice was served on the respondents in October, 1999. Hence, neither the Municipal Commissioner nor the Standing Committee nor the Municipal Board had any idea about the likely cost of renovations/changes which were proposed by Mr Kamal Mangaldas. Even then the said authorities did not indicate even a word in the proposal or the resolution/s as to why the offers made by the other parties like the petitioner (which were much higher than the offer of respondent No. 4) were not worthy of consideration. The proposal of the Municipal Commissioner or the resolution of the Standing Committee do not indicate that the Corporation had ever doubted the credentials of the petitioner and other parties who had submitted higher offers. Hence, it is not necessary to consider the contentions of respondent No. 4 in this behalf, nor is it necessary to consider the allegation of respondent No. 4 that the petitioner is supported by a business rival. The Court is not here to prevent competition, if any as alleged, between two business rivals. The question is whether the Corporation acted arbitrarily in taking the impugned decision.

10. The proposal of the Municipal Commissioner or the resolution of the Standing Committee do not even indicate that any attempt was made to find out whether the rent at the rate of Rs.25,000/- plus taxes offered by respondent No. 4 was reasonable rent looking to the prevalent market conditions. The only yardstick applied by the Municipal Corporation and the Standing Committee for taking the view that the said rent of Rs.25,000/plus taxes was reasonable was that earlier when the land having a petrol pump was given on rent to the Auto Rickshaw Drivers' Association at a monthly rent of Rs.1600/- and when a proposal was made in the year 1990 for increasing the rent seven times of the original rent i.e. Rs.10,000/-, the Standing Committee had made such recommendation to increase the rent by seven times as per Resolution No. 202 dated 12.5.1990, but the General Board of the Municipal Corporation had resolved to charge

monthly rent only at Rs.7,000/-. Hence, the Corporation and the Standing Committee merely proceeded on the basis of that formula that in 1990 the Standing Committee had recommended to charge seven times rent while renewing the lease and, therefore, for renewing the lease of respondent No. 4 also, instead of existing rent of Rs.3460/- plus taxes for the period between 1988 and 1998, the Standing Committee resolved that the offer made by respondent No. 4 at Rs.25,000/- plus taxes (which worked out to about seven times the existing rent) was a reasonable offer. It cannot be said that this ground given by the Corporation for fixing the rent was a rational or reasonable criterion for fixing the rent. No attempt was made to find out whether any such similar property was given on rent and at what rate. The property in question situate in the prime locality of Ahmedabad like the Law Garden area on the Western side of Sabarmati in the best developed and well planned part of Ahmedabad (which property is being utilized for running an ice-cream parlour/restaurant) was sought to be compared with the land with a petrol pump given on lease to Auto Rickshaw Drivers' Association in Astodia in the old city of Ahmedabad. It is not even the case of the respondent Corporation that any such similar land in a prime locality was given on lease after auction and the rent fetched at such a public auction was comparable to that offered by respondent No. 4. As stated above, the estimated cost of construction/renovation as per the plans prepared by Architect Mr Kamal Mangaldas was not even available with the Municipal Corporation, the Standing Committee or the General Board, when the impugned decision was taken. It is, therefore, not possible to hold that the Municipal Commissioner, the Standing Committee or the General Board had compared the rent offered by respondent No. 4 alongwith the estimated cost of such renovation/construction vis-a-vis the offers received from other parties. In any case, it was open to the respondent Corporation to invite public offers with a condition that the lessee will have to carry out the renovation/construction as per the plans of Architect Mr Kamal Mangaldas which were available with the Corporation since 1998 as per the date indicated in the plans.

11. As regards the contention of Mr Desai for the respondent Corporation that since respondent No. 4 was a sitting tenant for the last 20 years and that the eviction proceedings would have taken some time, it is required to be noted that the respondent-Municipal Corporation is a local authority which is exempt from the provisions of the Bombay Rent Act, 1947. There are statutory provisions under the Bombay Provincial

Municipal Corporations Act as well as under the provisions of the Gujarat Public Premises (Eviction of Unauthorized Occupants) Act, 1972 which empower the authorities including the Ahmedabad Municipal Corporation to evict unauthorized occupants summarily after expiry or termination of their lease. In the instant case, the lease was to expire on 17.10.1998. The final decision of the Corporation was taken in November, 1999. Thus looking to the time taken for considering the application of respondent No. 4 for renewal of the lease, the apprehension that summary eviction proceedings would have taken a long time cannot be said to be a bona fide defence.

If the argument urged on behalf of the respondent Corporation were to be accepted, it would mean that the respondent Corporation felt obliged to renew the lease in favour of respondent No. 4 on the ground that it was a lessee of the property in question between 1978 and 1998 for a period of 20 years and had invested Rs.3 lacs for renovation of the existing construction. That logic would apply with greater force when the proposed lease under challenge would expire in 2008 by which time respondent No. 4 would plead past lease period of 30 years and investment of lakhs of rupees for carrying out the renovations suggested by an Architect. That for all practical purposes would lead to a lease in perpetuity. In the mean time respondent No. 4 would continue to enjoy the property including additional construction for its own business purposes. It is also pertinent to note that respondent No. 4 is not to contribute anything for the upkeep of much larger adjoining public park for which the sponsorship is already taken by a textile Company.

12. The learned counsel for the respondents have contended that there is no statutory requirement of inviting public offers before granting any property on lease or before renewing the lease and that there are decisions of the Apex Court upholding the decision of the public authority to dispose of or grant on lease the public property without inviting tenders. It is true that no statutory provision is pointed out requiring the Corporation to invite public offers before granting the municipal property on lease or renewing the lease, but the submissions made on behalf of the respondents overlook the general principle laid down by the Apex Court that while granting public largesses, the general rule is that the public authority must get the highest possible offer and that the best way to obtain such highest offer is by inviting public offers so that all eligible parties get an opportunity to come forward with

their offers; and it is for the public authority to justify any departure from this general rule. It is, therefore, open to the Court to examine whether the ground urged by a public authority for making a departure from this general rule is arbitrary or not. Of course, it is true that the Court is not to sit in appeal over such decision and the public authority is to be permitted to have a play in the joint, but the only grounds given by the respondent Corporation in the resolution of the Standing Committee as confirmed by the General Board were that respondent No. 4 was a sitting tenant who had invested Rs. 8 lacs for the existing construction and was offering rent at seven times the rent under the old lease which had expired on 17.10.1988 alongwith the condition to carry out renovations suggested by the Architect.

13. Each of the above grounds have been dealt with hereinabove and the Court finds that no reasonable person acting on the basis of the materials which were there before the respondent authorities would have decided not to invite public offers for granting the valuable property in a prime locality on lease and would have decided to renew the existing lease inspite of knowing fully well that the respondent Corporation was exempted from the provisions of the Bombay Rent Act and that summary procedures are available to the respondent Corporation for evicting such unauthorized occupants who continue their occupation beyond the expiry of the lease period. As already stated above, no attempt whatsoever was made to find out the reasonable rent as per the prevalent market conditions. It is not the case of the respondent Corporation that any other similarly situate property like the Law Garden area which is the prima locality of Ahmedabad was given on rent after inviting public offers, that the rent offered by respondent No. 4 was comparable with such rent determined after inviting public offers. Apart from the fact that the petitioner has pointed out the higher rent being charged by the Railways from the ice-cream/fast food parlours, in view of the matters that come before this Court, the Court would like to take judicial notice of the fact that even small stalls admeasuring 20 to 50 sq. yards in public places like Bus Stations in the District towns like Mehsana and Surendranagar fetch monthly rent of Rs.5,000/- to Rs.10,000/-. Here is a valuable property with land admeasuring 1637 sq. yards with construction of 299 sq. yards in the prime locality of Ahmedabad. As stated above, the grounds given in the resolution, if accepted as rational and reasonable grounds, would only amount to granting a perpetual lease in favour of

respondent No. 4 as after expiry of lease period of 30 years (from 1978) and additional/new construction coming up on the land in question would only mean that respondent No. 4 would always have a stronger claim to get the lease renewed in its favour every time upon expiry of the 10 year lease term.

14. In Tata Cellular vs. Union of India, AIR 1996 SC 11, the Apex Court has quoted with approval the following principles as summarized by Lord Greene M.R. in Associated Provincial Picture Houses Ltd. vs. Wednesbury Corpn., 1947(2) All ER 680 :-

"The Court is entitled to investigate the action of the local authority with a view to seeing whether or not they have taken into account matters which they ought not to have taken into account, or conversely, have refused to take into account or neglected to take into account matter which they ought to take into account. Once that question is answered in favour of the local authority, it may still be possible to say that, although the local authority had kept within the four corners of the matters which they ought to consider, they have nevertheless come to a conclusion so unreasonable that no reasonable authority could ever have come to it. In such a case, again, I think the Court can interfere. The power of the Court to interfere in each case is not as an appellate authority to override a decision of the local authority, but as a judicial authority which is concerned, and concerned only, to see whether the local authority has contravened the law by acting in excess of the power which Parliament has confined in them."

(emphasis supplied)

Again in the same judgment in para 99, the Apex Court approved the following facets of irrationality as a test to be applied :-

"It is open to the Court to review the decision maker's evaluation of the facts. The Court will intervene where the facts taken as a whole could not logically warrant the conclusion of the decision-maker. If the weight of facts pointing to one course of action is overwhelming, then a decision the other way, cannot be upheld."

Again in the same judgment in para 110, the Court quoted with approval the following principle laid down by the Apex Court in F.C.I. vs, Kamdhenu Cattle Feed Industries, (1993) 1 SCC 71 :-

"In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to Article 14 of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law : A public authority possesses powers only to use them for public good. This imposes the duty to act fairly and to adopt a procedure which is `fairplay in action'."

15. Applying the aforesaid principles, it is clear that the respondent authorities did not consider what was the reasonable rent available for the valuable property in question in the prime locality having regard to the market conditions. The respondent authorities were for all practical purposes bogged down by the fact that respondent No. 4 was a sitting tenant for the last 20 years without considering that the respondent Corporation was exempted from the provisions under the Bombay Rent Act and was empowered to have recourse to summary eviction proceedings. The formula of seven times the rent which was applied to the land with a petrol pump given on lease to the Auto Rickshaw Drivers' Association in the old city of Ahmedabad is applied to the valuable property being used as an ice-cream parlour/capable of being used as a restaurant or a fast food restaurant in the prime locality of the well developed new city of Ahmedabad. The respondent authorities did not also have the estimate of the expenditure required to be incurred for carrying out the suggestions made by Architect Mr Kamal Mangaldas for renovation of the property. All these facts go to show that the respondent authorities took into account matters which they ought not to have taken into account and refused to take into account or neglected to take into account matters which they ought to have taken into account. The respondent authorities came to a conclusion so unreasonable that no reasonable authority could ever have come to it. The Court, therefore, interferes as per the aforesaid principles laid down by Their Lordships of the Hon'ble Supreme Court in Tata Cellular vs. Union of India (Supra).

In view of the aforesaid discussion, the impugned decision is required to be quashed and set aside as arbitrary and violative of the provisions of Article 14

of the Constitution.

O R D E R

16. The petition is accordingly allowed in the following terms :-

(i) The decision of the respondent-Ahmedabad Municipal Corporation to renew the lease in favour of respondent No. 4 for the land admeasuring 1637 sq. yards with construction thereon in Final Plot No. 430 in T.P. Scheme No. 3 situated at Motilal Park, popularly known as the Law Garden is hereby quashed and set aside. Since no lease deed is executed by the respondent Corporation in favour of respondent No. 4, no directions are required in that behalf.

(ii) Respondent No. 1-Ahmedabad Municipal Corporation shall invite public offers for the aforesaid property mentioning therein not only the duration of the lease but also the conditions, if any, for carrying out any construction/renovations as per such plans as may be suggested by the respondent Corporation. Such public notices shall be issued latest by 30.9.2001, in all the four leading newspapers published from the City of Ahmedabad i.e. Gujarat Samachar, Sandesh, Times of India and Indian Express.

(iii) Considering the fact that respondent No. 4 had offered to pay Rs.25,000/- plus taxes as rent and also had agreed to incur the expenditure for carrying out the renovation/construction as suggested by Architect Mr Kamal Mangaldas, against which respondent No. 4 has not spent any amount so far, but used and occupied the property in question allthroughout, it would be just and proper to hold that respondent No. 1 Corporation is not required to refund the amount paid by respondent No. 4 to the Corporation at the rate of Rs.25,000/- per month plus taxes for the period till 30.9.2001.

(iv) In case respondent No. 4 does not vacate the premises in question by 30.9.2001, respondent No. 4 shall pay the Ahmedabad Municipal Corporation the difference between the amount which may be determined as the rent amount pursuant to the tender exercise to be undertaken by the

Corporation and Rs.25,000/- (plus the Municipal taxes on such difference) as the amount of compensation for the use and occupation of the property in question from 1.10.2001 till the date of its eviction, if respondent No. 4 submits its offer in response to the public notice and its offer is not accepted; or if resp. No. 4 does not submit any offer.

17. Rule is made absolute to the aforesaid extent with no order as to costs.

18. At this stage, the learned counsel for the respondents pray for stay of operation of this order.

In the facts and circumstances of the case, no stay as prayed for is granted, but it is directed that the respondent Corporation shall not issue any public notice for inviting offers till 10.9.2001.

(M.S. Shah, J.)

sundar/-